

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

JACK E. VANCE,

Plaintiff,

v.

CIVIL ACTION NO. 1:16-10725

WEST VIRGINIA STATE POLICE
POCAHONTAS COUNTY DETACHMENT,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, the action was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of findings of fact and recommendations regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Aboulhosn submitted his Findings and Recommendation ("PF&R") to the court on November 13, 2017, in which he recommended that the court deny plaintiff's application to proceed without prepayment of fees and costs, grant defendant's motion to dismiss, dismiss plaintiff's complaints, and remove this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days plus three mailing days in which to file any objections to Magistrate Judge Aboulhosn's Findings and Recommendations. On December 5, 2017, the court granted plaintiff's motion for an extension of time in which to file objections, giving him until December 27, 2017 to do so. Rather than filing objections, on December 28, 2017, plaintiff

filed a Motion for A Stay and Abeyance. In that motion, Vance asked the court to stay this matter pending a ruling on a "Rule 35(a)" Motion he has pending in the Circuit Court of Pocahontas County. However, the grounds raised in the state court motion have no bearing on the issues raised in this 42 U.S.C. § 1983 action. Furthermore, Vance has not explained how the outcome of his state court motion will affect the analysis contained within the PF&R and the court can find no reasonable relationship between the two. For this reason, the Motion for a Stay and Abeyance is **DENIED**.

The failure of any party to file objections within the time allowed constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989). Neither party filed any objections to the magistrate judge's Findings and Recommendations within the requisite time period. Accordingly, the court adopts the Findings and Recommendations of Magistrate Judge Aboulhosn and **DENIES** plaintiff's application to proceed without prepayment of fees and costs, **GRANTS** defendant's motion to dismiss, **DISMISSES** plaintiff's complaints, and **DIRECTS** the Clerk to remove this matter from the court's active docket.

The Clerk is directed to send copies of this Memorandum Opinion and Order to counsel of record and to plaintiff, pro se.

IT IS SO ORDERED this 1st day of March, 2018.

ENTER:

David A. Faber

David A. Faber

Senior United States District Judge